

DEPARTMENT OF THE ARMY
Missouri River Division, Corps of Engineers
P.O. Box 103, Downtown Station
Omaha, Nebraska 68101-0103
CEMRD-OC

Regulation
No. 27-1-1

15 January 1990

Legal Services
PROCUREMENT FRAUD AND IRREGULARITIES PROGRAM

1. Purpose. This regulation prescribes policies, procedures, and responsibilities for managing and carrying out the Missouri River Division Procurement Fraud and Irregularities (PFI) Program.

2. Applicability. This regulation is applicable to the Missouri River Division and the Kansas City and Omaha Districts.

3. References.

- a. DFARS 9.472.2
- b. AFARS 9.472.2
- c. AR 27-40
- d. AR 190-40

4. Responsibilities.

a. Management and oversight of the Procurement Fraud and Irregularities Program are the responsibilities of the field operating activity (FOA) Counsel.

b. Procurement fraud is a crime affecting all elements of the command. Combating procurement fraud requires a multidisciplinary approach. All personnel act as a team to support the command in handling fraud cases.

5. Procedures

- a. The Procurement Fraud Advisor (PFA).

(1) The PFA shall be an attorney appointed by the FOA Counsel. PFAs should have a working knowledge of procurement law, criminal law and civil litigation.

(2) The PFA shall be responsible for the operation of the PFI program. The PFA has ultimate decision-making authority for all procurement fraud cases at the FOA level.

(3) Cases of procurement fraud shall be handled expeditiously. The District PFA shall telephonically advise the Division PFA and the HQUSACE PFI Coordinator of significant case developments at the earliest practicable opportunity.

(4) The PFA shall coordinate all procurement fraud cases with the Chief, Security and Law Enforcement, and both parties shall keep each other informed on matters that come to their attention in procurement fraud cases.

b. Procurement Fraud Case Initiation.

(1) Information from informal sources should be reduced to writing, either by the source or by the PFA, with as much specificity as possible. As a minimum, the information should include that necessary to prepare a Procurement Flash Report (see AR 27-40, para. 8-5b).

(2) The PFA shall assess the Information provided from formal and informal sources to determine if there is any possible violation of statute, regulation, policy, or contractual obligation. This assessment should not be so prolonged as to adversely affect any future criminal investigation or the safeguarding and collection of items of evidentiary value.

(3) All allegations/information of procurement fraud shall be promptly referred to the U.S. Army Criminal Investigation Command (CID) for investigation.

(a) Provide a preliminary assessment to CID.

(b) Identify appropriate command elements to participate as members of a Case Management Team (CMT).

(c) Assemble the CMT (Including the investigating agent) to discuss the need for, and timing of, necessary legal, administrative and contractual actions. The CMT may include such representatives, as appropriate, from:

- Audit
- Civilian Personnel
- Construction
- Counsel
- Engineering
- Labor Advisor
- Operations
- Contracting
- Resource Management
- Security and Law Enforcement
- SADBU
- Public Affairs

(4) The District PFA shall initiate a Procurement Flash Report IAW AR 27-40, para. 8-5b. Copies of the report shall be submitted simultaneously to the Division PFA (CEMRD-OC), HQUSACE PFI Coordinator (CECC-K), and DAJA-PF.

c. Procurement Fraud Case Management.

(1) The PFA shall Initiate a Remedies Plan (see AR 2740, Appendix H) whenever:

(a) Fraud involves a loss of \$50,000 or more.

(b) Bribery, gratuities or conflict of interest is suspected.

(c) Case is expected to or has received media coverage.

(d) Otherwise, as directed by the Division PFA or USACE PFI Coordinator.

(2) As appropriate, the PFA shall develop a suspension/debarment report (see DFARS 9.472-2 and 9.472-2). This report should, inter alia,

(a) Identify the agency that investigated either the facts reflected in the report or other aspects of the contractor's dealings with the Government.

(b) Include available credit and financial reports on the contractor, i.e., Dun and Bradstreet, Inc., to include the Duns number.

(3) As appropriate, the PFA shall prepare a civil litigation report. See AR 27-40, para. 2-4, for contents of civil litigation report. The PFA shall inform the Division PFA and the HQUSACE PFI Coordinator of contract-related matters which may affect the ongoing fraud investigation or civil litigation to include:

(a) Protests (General Accounting Office, General Services Board of Contract Appeals or Agency).

(b) Novations.

(c) Actions before the Armed Services Board of Contract Appeals or Engineer Board of Contract Appeals.

(d) Pending contract claims.

(e) Bankruptcy.

(f) Terminations for default/unsatisfactory performance ratings.

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(4) Duplication of reported information shall be avoided whenever possible. If preparation of both a suspension/debarment report and a civil litigation report are appropriate, a single report, incorporating the requirements of both, will suffice.

(5) The PFA shall review cases at least every 30 days.

(6) Following referral of the matter for criminal, civil or administrative remedies, the PFA shall assist the cognizant organization (Department of Justice (DOJ), Assistant United States Attorney (AUSA), Department of Army (DA)) in the pursuit of those remedies. This may include preparing pleadings, discovery, motions and negotiating settlement agreements. Before any contractual or administrative action is taken on a matter where a DOJ attorney/AUSA is assigned, the PFA shall coordinate with the Division PFA, the USACE PFI Coordinator, DAJA-PF and the DOJ attorney/AUSA.

6. Training and Awareness.

a. Annual training is required for all organizational elements involved in procurement activities. While the PFA is responsible for oversight of the training, the various organizational elements are responsible for ensuring that their employees receive the annual training. The PFA will advise procurement elements of training opportunities available, and procurement supervisors must ensure that they and their employees receive training on an annual basis. Verification of such training will be furnished to the PFA within 30 days after the end of the calendar year.

b. Additional awareness measures may also be implemented, i.e., procurement fraud related articles in command newspapers/ bulletins, fraud awareness posters, or distribution of DOD IG fraud-related publications.

FOR THE COMMANDER:

/s/
GEORGE T. LA BLONDE, JR.
Colonel, EN
Deputy Commander

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